

199C Subject - Personnel-16

Believe no further
action now

OGC Has Reviewed

5 October 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Mandatory Retirement for Age

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1. On 30 September I was advised by Mr. Houston that [redacted] 25X1A9a
[redacted] Executive Officer, Personnel, had inquired about the applica-
tion of mandatory retirement provisions to the Agency with particular
reference to the case of [redacted] GS-6, age 70.

2. Civil Service Retirement Act of 1930, as amended, constitutes
in its entirety the background of the Civil Service retirement system.
The fact that various provisions appeared in various acts of Congress,
passed at various times, seems irrelevant to a determination that this
retirement system is a system in toto and not composed of numerous
separable compartments.

3. This Agency has chosen to apply to its employees the benefits
of this retirement system. Deductions are made from employees' salaries
and employees who retire from CIA may apply for pensions on the same
basis as other employees of the Federal Government.

4. Whether we could have avoided the application of the retire-
ment act ab initio is a moot question, although it is my personal
opinion that we probably could have done so. The question is moot
because in actual practice we have accepted the retirement system
since the establishment of this Agency. If we accept the system, I
believe we must accept it as a whole. We cannot pick and choose,
applying beneficial provisions and avoiding those which we consider
detrimental. There are certainly elements of impropriety in being a
mugwump, and perhaps of illegality as well.

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5. I so advised [redacted] by phone on the afternoon of 30
September and he expresses agreement with this viewpoint.

6. The relevant provisions of law are cited in the Federal
Personnel Manual Z-1-345, and the regulations directly applicable
will be found in R 5-41 and R 5-57.

7. By statute the President is authorized to exclude from this mandatory retirement provision any employee of the Executive Branch. He has delegated this authority, except in the case of Presidential appointees, to the Civil Service Commission. Regulations provide that ~~an~~ agency heads requesting waiver of the mandatory age retirement must submit reasons as to why they have not used the re-employment provision.

8. The re-employment provision established by Civil Service regulation, provides that an employee mandatorily retired for age may be re-employed immediately on a temporary renewable appointment if, in the opinion of the agency head, he is possessed of special qualifications making his re-employment in the interest of the Government.

9. At the request of Colonel White, I briefed him generally on the foregoing the afternoon of 4 October and in more detail on the morning of 5 October.

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Office of General Counsel